

REMARKS:

The Office Action dated September 5, 2006, has been carefully considered. In response thereto, the present paper, which is believed to be fully responsive to that Office Action, has been prepared.

Status of the Claims

Claims 1-31 are pending in the application. Claims 1 and 28 are the only independent claims. New claims 32-34 are being submitted by way of this Amendment (claims 32 and 34 are independent claims). Thus, upon entry of this paper in the record, claims 1-34 will be pending in the application.

Summary of the September 5, 2006, Office Action

In the Office Action, the Examiner has acknowledged Applicants' Information Disclosure Statements (IDS) submitted to the Patent Office on July 22 and August 25, 2005, but has objected to the drawings and specification. The Examiner has also rejected claims 1-4, 7-19, 24, and 26-31 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,416,617 to *Ebbeson*, and has rejected claims 5, 6, 20, and 21 under 35 U.S.C. § 103(a) as being unpatentable over the *Ebbeson* patent alone or in combination with U.S. Patent No. 4,793,321 to *Rafford*. The Examiner has indicated that claims 22, 23, and 25 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following remarks are intended to address each of those objections and rejections.

Allowance of Claims

Applicants acknowledge and appreciate the Examiner's allowance of claims 22, 23, and 25 if rewritten in independent form. In response, claims 22, 23, and 25 have been cancelled and replaced with new independent claims 32 and 34 (corresponding largely to claims 22 and 25, respectfully). New dependent claim 33 (depends from claim 32) is directed to the shutter feature of the invention. Allowance of claims 32-34 is respectfully requested.

Objection to Drawings

In the Office Action, the Examiner has objected to the Drawings because of the use of reference numbers 15 and 34 as being used to describe more than one feature of the invention. In response to the Examiner's objection, FIGS. 1(c), 1(d), and 2, and specification, are being amended to clarify the intended use of the reference numbers. Reconsideration and withdrawal of the objection to the drawings is respectfully requested.

Objection to the Specification

In the Office Action, the Examiner has objected to the specification because of the use of reference number 17 when reference number 13 was intended to be used. In response to the Examiner's objection, the specification has been amended to clarify the intended use of the reference numbers 13 and 15. Reconsideration and withdrawal of the objection to the drawings is respectfully requested.

Rejections of Claims Under 35 U.S.C. § 102(b)

Also in the Office Action, the Examiner has rejected claims 1-4, 7-19, 24, and 26-31 under 35 U.S.C. § 102(b) as being anticipated by *Ebbeson*. In particular, the Examiner contends that the *Ebbeson* patent discloses each and every feature of the claimed invention. For the following reasons, Applicants respectfully traverse the Examiner's rejection.

Amended claim 1 recites that the claimed filling material is "metallic." It is respectfully submitted that the *Ebbeson* patent does not disclose the use of a metallic filling material and, thus, does not anticipate claim 1 (or claims 2-4, 7-19, 24, 26, 27, and 31, which depend from claim 1).

Amended claim 28 recites that the burner "is arranged so that the fuel inlet opening is only fully open when the combustion control means closes at least a portion of the gas exchange opening of the combustion chamber." It is respectfully submitted that the *Ebbeson* patent does not disclose the same arrangement of features recited in claim 28 and, thus, does not anticipate claim 28 (or claims 29 and 30, which depend from claim 28).

Accordingly, reconsideration and withdrawal of the rejection of the claims 1-4, 7-19, 24, and 26-31 under § 102(b) are requested.

Rejections of Claims Under 35 U.S.C. § 103(a)

Also in the Office Action, the Examiner has rejected claims 5 and 6 under 35 U.S.C. § 103(a) as being unpatentable over the *Ebbeson* patent. For the following reasons, Applicants respectfully traverse the Examiner's rejection.

First, claim 6 has been cancelled, rendering the rejection of that claim as moot. Applicant respectfully submits that the Examiner has not established a *prima facie* case of obviousness with regard to claim 5 (which depends from amended claim 1). The use of the "metallic" filling material in claim 1 would not have been obvious, contrary to the Examiner's "official notice" contentions. As best understood from the prior art, no burner has been proposed that uses a metallic filling material that distributes heat within the burner. In a conventional burner, when left in a closed position and partially filled with fuel, gas forms within the burner. When the shutter (like shutter 22) is opened and a fire ignited, a large flame initially forms, which could be dangerous. The metallic filling material is arranged to distribute heat within the burner and reduce the likelihood that such a flame can form. Consequently, the metallic filling material relates to a significant safety feature which has not heretofore been proposed for use in burners like those being claimed in the present application. Consequently, it cannot be said that it would have been obvious to modify the invention disclosed in the *Ebbeson* patent by using steel wool simply because steel wool has heat distribution capabilities. Thus, the *Ebbeson* patent does not establish a *prima facie* case of obviousness with regard to claim 5 (or claim 1, for that matter).

The Examiner has rejected claims 20 and 21 under 35 U.S.C. § 103(a) as being unpatentable over the *Ebbeson* patent in combination with the *Rafford* patent. Applicant respectfully submits, for the same reasons noted above with regard to claim 5, that the Examiner has not established a *prima facie* case of obviousness with regard to claims 20 and 21 (which depend from amended claim 1).

Accordingly, reconsideration and withdrawal of the rejection of claims 5, 6, 20, and 21 under § 103(a) are requested.